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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,262	10/29/2003	David A. Arias	SWIM -019/00US	7065

7590 05/26/2005
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EXAMINER

CHEN, JOSE V

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/696,262	Applicant(s) ARIAS, DAVID A.	
	Examiner José V. Chen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/12/04, 10/24/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-11, 13-15, 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Zheng ('283). The patent to Zheng ('283) teaches structure as claimed including a collapsible cover, comprising a flexible panel (40) having a top side and a bottom side a perimeter pocket (48) formed substantially around a perimeter of the flexible panel a coilable frame member (44) held or contained within the perimeter pocket, the coilable frame member is capable of being manipulated between an expanded configuration and a collapsed configuration, a flexible skirt (42) attached substantially along a perimeter of the flexible panel, the flexible panel comprises woven fabrics, sheet fabrics, films, nylon, spandex, vinyl, PVC, neoprene, or an equivalent, the flexible panel comprises a flexible and/or elastic material, wherein the coilable frame member is mechanically fastened, joined, stitched, fused, or glued within the perimeter pocket, the coilable frame member comprises a unitary element, the coilable frame member comprises at least one strip or segment of frame member material connected to form a continuous loop, the coilable frame member comprises spring steel, the coilable frame member comprises a corrosion resistant material, the coilable frame member comprises at least one of plastic, fiberglass, Polyvinyl Chloride, nylon, or its

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equivalent, the flexible skirt extends generally toward the center of the collapsible cover, the flexible skirt comprises woven fabrics, sheet fabrics, films, nylon, spandex, vinyl, PVC, neoprene, or an equivalent, the flexible skirt comprises a flexible and/or elastic material.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4, 12, 16, 18, 23, 30, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng ('283). The patent to Zheng ('283) teaches structure substantially as claimed as discussed above including flexible panel coilable frame member, flexible skirt. The use of a plurality of different materials, including elastic materials and corrosion resistant treatments are well known in the art and are commercially used, such as in liquid resistant materials, oils and applicant is hereby given judicial notice of such. It would have been obvious and well within the level of

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ordinary skill in the art at the time of the invention was made to modify the structure of Zheng to include different composite materials and corrosion resistant treatments, as known in the commercially available art since such are used in the same well known intended purpose, thereby providing structure as claimed. The use of retaining straps is well known and to use such in the same intended purpose would have been obvious and well within the level of ordinary skill in the art, thereby providing structure as claimed. Dimensional characteristics are matters of desirability and would have been obvious and well within the level of ordinary skill in the art.

Claims 5, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng ('283) as applied to the claims above, and further in view of Foster. The patent to Zheng ('283) teaches structure substantially as claimed as discussed above including flexible skirt, the only difference being that the skirt does not comprise of a cushioning material. However, the patent to Foster (at 24) teaches the use of providing a cushioning material to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Zheng ('283) to include a cushioning material in the skirt since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

Claims 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng ('283) as applied to the claims above, and further in view of Muller. The patent to Zheng ('283) teaches structure substantially as claimed as discussed above including cover structure, the only difference being that the cover does not include reinforced hole

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structure for use as a table cover and umbrella. However, the patent to Muller teaches the use of providing a cover for a table and umbrella structure that include a hole and reinforcement structure to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Zheng ('283) to include a hole structure as taught by Muller since such structures are used in the same intended purpose thereby providing structure as claimed.

Conclusion

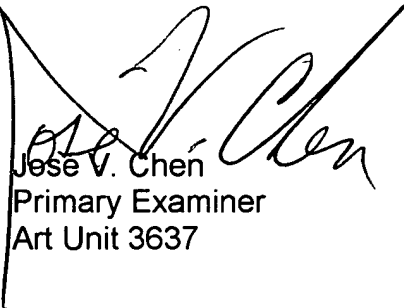
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Markey, Bilotti, Gantert-Merz, Keshm Gordon, Nelson et al, Danielson teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jose V. Chen
Primary Examiner
Art Unit 3637

Chen/jvc
05-24-05